

Department of Conservation

MAINE LAND USE REGULATION COMMISSION

22 State House Station, Augusta, Maine 04333 Tel.(207)287-2631

Rules of Practice

Chapter 4 of the Commission's Rules

Effective Date: May 16, 1975

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Chapter 4 Rules of Practice

4.01 Scope of Rules

Except as otherwise provided herein or by other applicable provisions of law, these rules shall be applicable to procedures before the Commission including the adoption and amendment of rules, land use standards and district boundaries and the processing of all applications made to the Land Use Regulation Commission, including applications for permits required pursuant to 12 M.R.S.A. § 685-B, requests for variances or special exceptions pursuant to 12 M.R.S.A. § 685-A(10), and petitions for changes in land use standards and district boundaries pursuant to 12 M.R.S.A. § 685-A (7-A).

4.02 Advisory Rulings

- (1) **General Provisions:** The staff of the Land Use Regulation Commission may, at its discretion, issue an advisory ruling with respect to the applicability to any person, property, or actual state of facts of any statute, standard or rule administered by the Commission.

Any such ruling shall be issued as follows:

- (a) The request for an advisory ruling shall be made in writing and set forth all facts relevant to the determination of the applicability of the rules, standards or statutes of the Commission; and
 - (b) The advisory ruling shall be made in writing upon review and approval of the Director, and shall state that it is limited in application to the facts stated in the request.
- (2) **Rulings Not Binding:** The advisory ruling shall not be binding on the Commission but shall be subject to the provisions of 5 M.R.S.A. § 9001, (3).
- (3) **Availability of Rulings:** All advisory rulings issued pursuant to this rule shall be made available to any person for inspection at no charge at the Commission offices and for copying for a reasonable fee.

4.03 General Provisions

- (1) **Application Forms:** Application forms for permits or zone changes shall be established and may be changed from time to time by the staff and shall require such information as deemed necessary or desirable to obtain information relevant to the permit, petition or other request.
- (2) **Signatures:** Applications for permits or zone changes shall be signed and submitted in writing to the Commission offices. An application submitted by a corporation or other legal entity shall be signed by a properly authorized official. If the applicant is acting as agent for the landholder, the applicant shall indicate the agency relationship and so sign the

application. If the applicant desires that orders and notices of the decision be served on any other person, the applicant shall designate such person on the application form.

- (3) **Title, Right or Interest:** Unless otherwise provided by law, prior to acceptance of an application for a permit or zone change for processing, an applicant shall demonstrate to the Commission's satisfaction sufficient title, right or interest in all the property proposed for development or use. Methods of proving title, right or interest include, but are not limited to, the following:
- (a) When the applicant owns the property, a copy of the deed(s) to the property must be supplied. However, in the instance of large ownerships where, as determined by the staff, providing deeds would be impractical or cumbersome, other methods, such as certificates of ownership, may be acceptable;
 - (b) When the applicant has a lease or easement on the property, a copy of the lease or easement must be supplied. The lease or easement must be of sufficient duration and terms, as determined by the Commission, to permit the proposed development and use of the property;
 - (c) When the applicant has an option to buy or lease the property, a copy of the option agreement must be supplied. The option agreement must be sufficient, as determined by the Commission, to give rights to title, or a leasehold or easement of sufficient duration and terms to permit the proposed development and use of the property;
 - (d) When the applicant asserts eminent domain power over the property, evidence must be supplied describing the ability and intent to use the eminent domain power to acquire sufficient title, right or interest as determined by the Commission;
 - (e) When the applicant has either a valid preliminary permit or a notification of acceptance for filing of an application for a license from the Federal Energy Regulatory Commission for the site which is proposed for development or use, a copy of that permit or notification must be supplied;
 - (f) When a project involving the State's submerged lands requires a grant of a submerged land lease or easement from the Bureau of Parks and Lands (BPL), title, right or interest in the property will be presumed for purposes of the Commission's processing and acting upon the application or notification, subject to the following requirements.
 - (i) When an application is submitted to the Commission involving a use of the State's submerged lands, the Commission will forward a copy to BPL. The Commission will not act upon an application until it has received written notice from BPL that a submerged lands lease or easement is not required, or that BPL has initiated formal review of the project. If the Commission receives written notice from BPL that a grant of a submerged lands lease or easement is legally required but has been or is likely to be withheld, the Commission will cease processing the application. As a condition of the Commission's licensing of any project involving the State's submerged lands requiring a submerged lands lease or easement from BPL, construction may not commence unless the required interest has been granted by BPL.
 - (ii) For projects involving the salvage of sunken logs from the state's submerged lands and which require a sunken log salvage authorization from BPL, the Commission shall not begin processing the application until BPL has issued an authorization allowing the salvage in the location proposed, unless BPL provides written notification that it has initiated review of the proposed salvage operation and approval in the proposed location is likely. In no instance shall the Commission issue a permit for sunken log salvage prior to BPL's issuance of a sunken log authorization for the project. A permit issued by the Commission shall be effective for a period not to exceed the term of the authorization as granted or reissued by BPL.

- (iii) When the Department of Inland Fisheries and Wildlife or the Bureau of Parks and Lands files a notification to establish a public boat launch, title, right or interest to submerged lands shall be presumed for purposes of acceptance of the notification if the applicant demonstrated it has filed an application for a submerged lands lease with BPL. Work on the project may not begin until a lease or easement is obtained or the Bureau of Parks and Lands has provided notification that one is not necessary.

(4) Representation for a Subdivision Application in which Interests have been Sold without a Subdivision Permit:

The following provisions apply in the case of an application for a subdivision or similar development in which interests have been sold without a subdivision permit as required by 12 M.R.S.A. § 685-B:

- (a) The person who subdivided the land shall be considered the proper applicant before the Commission, provided the person still holds an interest in some or all of the land that was subdivided.
- (b) If the person who subdivided the land is unavailable or no longer holds an interest in the subdivision, persons having a current interest in any lot in the subdivision may apply for a subdivision permit provided that:
 - (i) All such persons coapply, or
 - (ii) The Commission determines that those lot owners not represented are not necessary to the proceeding. In determining the necessity of such representation, the Commission shall consider:
 - ((a)) The extent to which a decision reached in the person's absence might be prejudicial to his/her interests in the subdivision or to the interests of the other parties to the proceeding;
 - ((b)) The extent to which such prejudice can be lessened or avoided by provisions in the decision;
 - ((c)) Whether the decision reached in the person's absence will be adequate; and
 - ((d)) Whether the other parties will have an adequate remedy if no decision is made by the Commission.
- (c) An applicant must provide the following to the Commission:
 - (i) A complete list of those persons having a current interest in any lot in the subdivision; and
 - (ii) Documentary evidence indicating that he/she has provided all persons having a current interest in any lot in the subdivision with notice of the pending application. The notice shall indicate the nature of the application, the criteria against which the application shall be measured, the procedure for review of the application, the possible effects of the application on persons having interests in lots in the subdivision, the opportunity for any such persons to participate in the proceedings before the Commission and any other information which the Director deems appropriate.

- (5) **Representation for Amendments to Existing Subdivision Permits:** The following provisions apply in the case of an application to amend a subdivision permit issued by the Commission under the provisions of 12 M.R.S.A. § 685-B:
- (a) The person who subdivided the land shall be considered the proper applicant before the Commission. If this person is unavailable or no longer holds an interest in the subdivision, the lot owners' association or, if no lot owners' association has been formed, any individual lot owner shall be considered a proper applicant before the Commission.
 - (b) The applicant must provide to the Commission all information required under 4.03(4)(c). In addition, if there is a lot owners' association, the applicant shall provide the Commission with documentary evidence that all procedures related to the amendment of the subdivision permit, if any, which may be set forth in the bylaws of the association have been complied with.
- (6) **Fee:** The application shall be accompanied by the proper fee as set pursuant to chapter 1 of the Commission's rules.
- (7) **Application Deficiencies:** No action shall be taken on any application or petition if the staff or the Commission determines that:
- (a) The application is improperly signed;
 - (b) The application is not accompanied by the proper fee; or
 - (c) The application is incomplete.

The staff shall notify the applicant of any such deficiency within a reasonable time after it becomes aware of the deficiency.

- (8) **Burden of Proof:** Unless otherwise provided herein or by other applicable provisions of law, the burden of proof should be as follows:

The burden of proof and burden of going forward shall be upon the applicant or petitioner. An applicant or petitioner pursuant to 12 M.R.S.A. § 685-B, § 685-A (10), or § 685-A (8A) must demonstrate by substantial evidence that the criteria of all applicable statutes and regulations have been met. In the case of any property owner or lessee who requests that the Commission place his/her land in a particular land use district, the burden of proof shall be defined as the burden of presenting sufficient evidence for the Commission to make affirmative findings as required by law or regulation.

- (9) **Consolidation of Notices:** Notice provided pursuant to Sections 4.04, 4.05, 4.06 and 4.07 of this chapter may be included in a written statement providing notice of more than one such application or petition.

4.04 Permit Applications

- (1) **Applicability:** This section governs the procedures by which the Commission may consider permit applications submitted under 12 M.R.S.A § 685-B and Chapter 10 of the Commission's rules.
- (2) **Who May Apply:** An applicant may designate an agent for the purposes of completing an application and representing the applicant's interests before the Commission.

- (3) **Application Content:** An application must contain sufficient information to enable the Commission to make the findings required in Chapter 10, and §685-B(4), Criteria for Approval. An applicant shall use the appropriate application forms but need not complete any portions of an application determined by staff to be unnecessary for a specific application.
- (4) **Notice of Receipt of Permit Applications:** Following receipt of a permit application, staff shall provide notice as follows:
- (a) The staff shall generate a list of all applications received on a periodic basis indicating the name of the applicant and the location and nature of the proposed activity. This list must be made available to the public upon request.
 - (b) For all requests for variances to the Commission's standards pursuant to 12 M.R.S.A. § 685-A(10), the staff shall provide notice of the pending application by regular mail to all persons owning or leasing land within 1000 feet of the proposed project, but it shall be the responsibility of the applicant to provide accurate names and addresses of such persons.
 - (c) For applications that the Director deems to be of general public interest due to their nature, location, or size, the staff shall provide notice of the pending application by regular mail to:
 - (i) All persons owning or leasing land within 1000 feet of the proposed project as shown in the records of Maine Revenue Services or the applicable plantation or municipality;
 - (ii) The municipality or plantation where the project is proposed;
 - (iii) The county, if the proposed project site is in an unorganized township;
 - (iv) Legislators whose districts encompass the project;
 - (v) Persons who have made timely requests to be notified of a specific permit application; and
 - (vi) In any proceeding involving a proposed modification or amendment of a permit that was the subject of an earlier hearing, all persons admitted to formal party status in the earlier hearing.

The staff may require as part of any application that the applicant submit the names and addresses of all persons owning or leasing land within 1000 feet of the project and/or that the applicant provide the notice required by this paragraph to all such persons.

The staff may provide additional notice in any other manner it deems appropriate.

(5) **When to Hold a Public Hearing:**

- (a) As provided by these rules, interested persons may prepare and submit evidence and argument to the agency and request a hearing on an application.
- (b) The Commission shall consider all requests for a hearing submitted in a timely manner. Hearings on an application are at the discretion of the Commission unless otherwise required by the Constitution of Maine or statute. In determining whether a hearing is advisable, the Commission shall consider the degree of public interest and the likelihood that information presented at the hearing will be of assistance to the Commission in reaching its decision.
- (c) The Commission shall not amend or modify any permit unless it has afforded the permit holder an opportunity for hearing, nor shall it refuse to renew any permit unless it has afforded the permit holder an opportunity for a hearing.

- (6) **Notice of Hearings on Permit Applications:** Notice of all public hearings in regard to permit applications and appeals thereof must be given by the Commission as follows:

- (a) By regular mail, 17-24 days prior to the scheduled hearing, to:
 - (i) The applicant;
 - (ii) All persons owning or leasing land within 1000 feet of the proposed project according to the records of Maine Revenue Services or the applicable plantation or municipality;
 - (iii) The municipality or plantation where the project is proposed;
 - (iv) The county, if the proposed project site is in an unorganized township;
 - (v) The legislators whose districts encompass the project;
 - (vi) Intervenors;
 - (vii) Persons who have made a timely request to be notified of a specific hearing;
 - (viii) Persons who have filed a written request, within the calendar year, to be notified of hearings;
 - (ix) Appropriate State and federal agencies, as determined by the staff; and
 - (x) In any proceeding involving a proposed modification or amendment of a permit which was the subject of an earlier hearing, all persons admitted to formal party status at the earlier hearing.
- (b) By publication in a newspaper of general circulation in the area affected by the permit application as determined by the staff.
 - (i) Notice must be published in the legal notices section of the newspaper.
 - (ii) The date of the publication must be 17-24 days before the hearing.
- (c) In any other manner the staff deems appropriate.

(7) **Contents of Notice:** Notice required under this section must indicate:

- (a) The name and address of the applicant;
- (b) The legal authority and jurisdiction under which the proceeding is being conducted;
- (c) A reference to the major substantive statutory and rule provisions involved;
- (d) In a short and plain statement, the nature and purpose of the proceeding;
- (e) The location and nature of the proposed development;
- (f) The location where further information, including a copy of the application, may be inspected;
- (g) The manner and time period within which evidence and argument may be submitted to the Commission for consideration;
- (h) The time and place of the public hearing, or the manner in which a public hearing concerning the application or petition may be requested;
- (i) When a hearing has been set, the manner and time within which applications for intervention under Chapter 5 may be filed.
- (j) Such other information as the staff deems appropriate.

(8) **Cancellation or Change of Hearing:** If a scheduled hearing is canceled or postponed to a later date, the Commission shall provide timely notice to the persons described in Section 4.04(6)(a). When hearings are continued, the staff shall provide such additional notice as it deems appropriate to inform the parties and interested persons, but the Commission shall be entitled to continue a hearing to a later date and place as is announced at the hearing.

(9) **Comment Period Without Hearing:** The staff shall allow a period of not less than 7 days after providing notice of receipt of a permit application, during which time any interested persons may submit written comments to the Commission's office. Exceptions to this time period may be made in cases involving emergencies, as determined by the staff, and permit applications determined by the staff to be routine in nature, including building permits and building permit amendments.

(10) Procedures and Time Limits for Issuing a Permit Decision:

- (a) Within 60 days after closure of a public hearing concerning a permit, the Commission shall make written findings of fact and issue an order either granting approval, subject to reasonable terms and conditions that the Commission determines appropriate in order to fulfill the requirements and intent of the Commission's statute, the Comprehensive Land Use Plan, and the Commission's rules, or denying approval of the application as proposed.
- (b) If the Commission determines to act upon a permit application without a hearing, the Commission, within 90 days after receiving the complete application, shall make written findings of fact and issue an order either granting approval, subject to reasonable terms and conditions that the Commission determines appropriate in order to fulfill the requirements and intent of the Commission's statute, the Comprehensive Land Use Plan, and the Commission's rules, or denying approval of the application as proposed.
- (c) The Commission shall render its determination on an application for subdivision approval within 60 days after the commission determines that the application is complete and that the proposal is a permitted use within the affected district or subdistrict.
- (d) Except where otherwise directed by the Commission or determined by the Director, the staff shall prepare a recommendation for each permit application brought to the Commission for a decision. Copies of the staff recommendation for a Commission decision must be made available to the applicant, intervenors and all other persons requesting to be so notified at least 7 days prior to the date of expected decision.
- (e) Notice of the decision on an application shall be sent to the applicant and to any other person having requested such information.
- (f) Notice of a decision of the staff must indicate that any person aggrieved by the staff decision has the right to a review of the staff decision by the Commission. The request for such review must be made in writing within 30 days of the staff decision.
- (g) A copy of each application, marked approved or disapproved, shall be retained in the commission files and shall be available to the public during normal business hours.
- (h) In the event the commission approves an application for a subdivision, a copy of an approved plat or plan and a copy of the conditions required by the commission to be included in any deed or other document conveying an interest in the subdivision shall be filed with the appropriate registry of deeds for each county in which the real estate lies.
- (i) The Commission will maintain at its principal office a written record, available for inspection by the public, of the vote of each Commission member on an application it has considered.

(11) Appeals:

- (a) Requests for Commission review of staff decisions must be made within 30 days of the decision.
- (b) Appeals of Commission decisions that are final agency action must be taken to Superior Court in accordance with applicable state laws and court rules. However, any person aggrieved by a decision of the Commission in which no hearing was held, may petition the Commission for a hearing. Such petition must be made within 30 days of the decision and must set forth in detail:

- (i) The findings, conclusions and conditions to which the petitioner objects;
 - (ii) The basis of the objection;
 - (iii) A summary of the information that will be presented at the public hearing that could not be reasonably presented during the administrative review process;
 - (iv) A statement describing the reasons why holding a public hearing will be of assistance to the Commission in rendering a decision;
 - (v) The nature of the harm caused the petitioner by the decision; and
 - (vi) The nature of the relief requested.
- (c) The Director shall provide notice of requests for public hearing made following a Commission decision to any person having requested in writing to be notified of such requests and to any other person the Director deems appropriate. The notice shall include a copy of the petition for public hearing and any other information the Director deems appropriate
 - (d) Within 45 days after receipt of such petition for a public hearing, the Commission shall either:
 - (i) Deny the petition for public hearing and notify the petitioner in writing of the denial of the request; or
 - (ii) Schedule a public hearing in accordance with the rules in this section and Chapter 5.

4.05 Petition for Adoption or Amendment of Land Use District Boundary

- (1) **Applicability:** This subsection governs the procedures by which the Commission may consider petitions to change the boundaries of existing subdistricts or establish new subdistricts. Zoning changes requested by these petitions, if approved, will be reflected on the Commission's land use maps.
- (2) **Who May Petition:** The Commission or its staff may initiate, and any state or federal agency, any county or municipal governing body, or the property owner or lessee may petition for the adoption or amendment of land use district boundaries. A lessee must provide written notice to the landowner of the intent to file a petition for adoption or amendment of land use district boundaries.
- (3) **Petition Content:** Petitions must be in writing and must state:
 - (a) The district boundary that the petitioner requests to adopt or amend;
 - (b) The nature of the change requested;
 - (c) The basis for the change requested;
 - (d) Substantial evidence that the requested change is in conformity with the applicable criteria for changes in district boundaries set forth in 12 M.R.S.A. § 685-A(8-A).

- (4) **Notice of Receipt of Petitions for Changes in Land Use District Boundaries and Opportunity for Hearing:** Promptly after initiation or receipt of a petition for a change in district boundary, the staff shall provide notice as follows:
- (a) For All Petitions:
 - (i) Include such petitions on the periodic list of applications received as provided for in Section 4.04,(4),(a);
 - (ii) Provide notice of the petition to any person who has requested in writing to be notified of the particular petition;
 - (iii) Provide notice by certified mail to all persons owning or leasing land within 1000 feet of the land which is the subject of the proposed change, according to their names and addresses as shown on the records of Maine Revenue Services or plantation or town tax assessors. If the number of persons owning or leasing land within 1,000 feet of the affected land is more than 50, notice may instead be by newspaper publication in compliance with Section 4.04,(6),(b);
 - (iv) Provide additional notice as the staff deems appropriate.
 - (b) For Petitions of General Public Interest: For petitions that the Director deems to be of general public interest due to their nature, location or size, the staff shall also provide notice of the pending petition in accordance with Section 4.04(4)(c).
 - (c) The Commission or its staff may require as part of any petition for a change in district boundaries that the petitioner submit the names and addresses of all landowners or lessees and/or that the petitioner provide the notice required by 4.05(4)(a)(iii) above.
- (5) **When to Hold a Public Hearing:** The Commission shall consider all requests submitted in a timely manner for a hearing on a petition for a change in district boundaries. Holding the hearing is at the discretion of the Commission unless otherwise required by the Constitution of Maine or statute or if five or more interested persons request in writing that the Commission hold a hearing, in which case a hearing must be held. In determining whether a hearing is advisable, the Commission shall consider the degree of public interest and the likelihood that information presented at the hearing will be of assistance to the Commission reaching its decision.
- A hearing is not required for changes in land use district boundaries in the case of changes proposed on motion of the staff which involve only correction of clerical mistakes.
- (6) **Notice of Hearings on Petitions:** Notice of all public hearings in regard to petitions for changes to district boundaries must be given as provided for in Section 4.04(6).
 - (7) **Contents of Notice:** Notice of hearings on petitions must be as provided for in Section 4.04(7).
 - (8) **Cancellation or Change of Hearing:** Notice of cancellation or change of hearing shall be as provided for in Section 4.04(8).
 - (9) **Comment Period Without Hearing:** The staff shall provide for a period of not less than 7 days after providing notice of receipt of a petition for changes in land use district boundaries,

during which time any interested persons may submit written comments to the Commission office.

(10) **Procedures and Time Limits for Issuing a Decision on a Petition to Adopt or Change a District Boundary:**

- (a) Within 45 days after receipt of a petition for a change in a district boundary, the Commission shall schedule a public hearing or, if no hearing is held, set a final date by which comments on the petition may be submitted to the Commission.
- (b) The Commission must act upon a petition for proposed changes to district boundaries within 90 days after the final closure of the public hearing, or where the Commission determines to proceed without a hearing pursuant to this chapter, within 90 days of the final date by which data, views or arguments may be submitted to the Commission for consideration in amending the district boundaries.
- (c) At any time prior to adoption of proposed land use boundaries, the Commission may elect to reopen the public hearing record and extend the time period for public comment to such date as it may designate.
- (d) District boundaries adopted by the Commission shall be effective 15 days after adoption, provided all applicable requirements for their adoption have been met and the same have been filed with the appropriate registry of deeds for each county involved;
- (e) A notice of adoption of land use district boundaries must be filed with the Secretary of State. This filing must include a statement indicating that current copies of maps showing district boundaries are on file in the Commission's office and the method by which copies may be obtained;
- (f) Public notice of adoption must be provided by publication one time in a newspaper or newspapers of general circulation in the area affected;
- (g) The Commission will maintain at its principal office a written record, available for inspection by the public, of the vote of each Commission member on the petition.

- (11) **Appeals:** Appeals of Commission decisions that are final agency actions must be taken to Superior Court in accordance with applicable state laws and court rules. However, any person aggrieved by a decision of the Commission in which no hearing was held may petition the Commission for a hearing within 30 days. In this case, the petitioner and the Commission must follow the provisions in 4.04(11)(b).

4.06 Rulemaking Procedures

- (1) **Applicability:** This section governs the adoption or amendment of rules and the Commission's Comprehensive Land Use Plan. This section does not pertain to the adoption or amendment of land use district boundaries; those procedures are governed by section 4.05.
- (2) **Who May Petition:**
 - (a) The Commission or its staff may initiate the adoption or amendment of land use district standards.

- (b) Any person may petition the Commission in writing to request the adoption or modification of any rule. Such petition must specify the change requested. Within 60 days after receipt of such petition, the Commission shall either:
 - (i) Deny the proposed amendment, indicating in writing the reasons for denial; or
 - (ii) Initiate rulemaking proceedings on the proposed amendment.
 - (c) Whenever a petition to adopt or modify a rule is submitted by 150 or more registered voters of the State, the Commission shall initiate rulemaking within 60 days after receipt of the petition. The petition must conform to the applicable provisions of the Administrative Procedures Act, including with respect to the certification of names on the petition.
- (3) **Petition Content:** Petitions must be in writing, and must state the change requested and the basis for the change requested.
- (4) **When to Hold a Public Hearing:** The Commission shall consider all requests for a hearing on a rulemaking petition in accordance with the applicable provisions of the Administrative Procedures Act. If five or more interested persons request in writing that the Commission hold a hearing on a Commission or staff initiated petition, a hearing must be held.
- (5) **Notice of Rulemaking:** Notice of rulemaking, with or without a hearing, must be provided as required by 5 M.R.S.A. §8053(1), (2), (3A), and (5).
- (6) **Contents of Notice:** Notice of rulemaking must include all provisions in 5 M.R.S.A. §8053 (3).
- (7) **Cancellation or Change of a Hearing:** If a scheduled hearing is cancelled or postponed to a later date, the Commission shall provide notice as provided in 4.06 (5). When a hearing is continued, the staff shall provide additional notice as it deems appropriate, but the Commission may continue a hearing to a later date and place as announced at the hearing.
- (8) **Time Limits for Rule Adoption:**
 - (a) **Land Use District Standards:** The Commission must act to adopt proposed land use district standards within 90 days after the final closure of the public hearing, or where the Commission determines to proceed without a hearing, within 90 days of the final date by which data, views or arguments may be submitted to the Commission for consideration in adopting the standards.

At any time prior to adoption of proposed land use standards, the Commission may elect to reopen the public hearing record and extend the time period for public comment to such date as it may designate.

- (b) **All Other Rules:** Except as provided in paragraph (a), the Commission must act to adopt proposed rules within 120 days of the final date by which data, views or arguments may be submitted to the Commission for consideration in adopting the rule.

The final date for comments may be extended if notice of doing so is published within 14 days after the most recently published comment deadline, in the Secretary of State's consolidated notice publication.

- (9) **Adoption Requirements:** With respect to all rules adopted or amended by the Commission, the Commission shall follow the adoption procedures in 5 M.R.S.A. § 8052(4), (5), (5-A), (7)(B), and (8); 8053-A (4); 8056 (1), (2) and (5); 8056-A (1); 8057-A; and 8063.
- (10) **Coordination with the Legislature:** The Commission shall:
- (a) At the time of giving notice of rulemaking or within 10 days following the adoption of an emergency rule, provide to the Legislature a rulemaking fact sheet providing information described in 5 M.R.S.A. § 8053-A(1), and where applicable, 5 M.R.S.A. § 8053-A(2);
 - (b) If the Commission determines that a rule which it intends to adopt will be substantially different from the proposed rule, provide the Legislature, in accordance with paragraph (a), with a revised fact sheet as it relates to the substantially different rule pursuant to 5 M.R.S.A. § 8053-A (1)(A);
 - (c) Provide copies of its regulatory agenda to the Legislature at the time the agenda is issued pursuant to 5 M.R.S.A. § 8060.
 - (d) If the Commission proposes a rule not in its current regulatory agenda, file an amendment with the Legislature and Secretary of State at the time of rule proposal, pursuant to 5 M.R.S.A. § 8064;
 - (e) When the Commission provides materials to the Legislature, follow the guidelines in 5 M.R.S.A. § 8053-A (3);
- (11) **Emergency Rulemaking:** If the Commission finds that immediate adoption of a rule is necessary to avoid an immediate threat to the public health, safety or general welfare, it may modify these procedures, to the extent required, to enable adoption of a rule to mitigate or alleviate the threat found. An emergency rule must be adopted in accordance with 5 MRSA § 8054.
- (12) **Effective Date of Adopted Rules:** Unless a later effective date is provided, rules adopted or amended by the Commission become effective 5 days after filing with the Secretary of State, except for emergency rules, which become effective immediately upon adoption by the Commission.

Land use district standards are effective as provided in the preceding paragraph but must be submitted to the next regular or special session of the Legislature, for approval or modification. If the Legislature fails to act, those standards continue in full force and effect.

4.07 Final Action

- (1) **Staff Decisions:** Any person aggrieved by a decision of the staff has a right to a review of that decision by the Commission. A request for such a review must be made in writing within 30 days of the staff decision.
- (2) **Commission Decisions:** A decision of the Commission shall be considered final on the date rendered by the Commission, unless the Commission receives a request for a public hearing pursuant to Section 4.04(11)(b) or 4.05(11). Where such a request is made, the decision of the Commission shall be considered final on the date of notice of the Commission's denial of the request for public hearing or of the Commission's decision after public hearing.
- (3) **Re-application:** After receipt of a final decision as described in subsections (1) and (2) above, no person may reapply to the Commission for a permit for the same proposed use for the property in question, unless they can demonstrate that there is a significant change in circumstances or substantial new information to be presented to the Commission.

4.08 Computation of Time

- (1) **Days Included:** In computing any period of time prescribed by statute or regulations of the Commission, the day of the act or event, after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A holiday is any day designated as such by the President or Congress of the United States, or the Governor or Legislature of the State of Maine.
- (2) **Receipt of Materials:** In regard to any time period or deadline for the filing of any submission or for service of any paper, that filing or service is complete:
 - (a) Upon the Commission, when the Commission receives the submission or paper by mail, in-hand delivery or any other means specified by the Commission; or
 - (b) Upon a party, when the paper is mailed to the party or the party's attorney, by in-hand delivery or by delivery to the recipient's office.
- (3) **Acceptance of Materials After Expiration of the Time Period:** The Commission, for good cause shown, may at any time in its discretion:
 - (a) With or without motion or notice, order the period enlarged if request thereof is made before the expiration of the period originally prescribed or as extended by a previous order; or
 - (b) Upon request made after the expiration of the prescribed period, permit the act to be done where the failure to act was the result of excusable neglect.

4.09 Revocation or Suspension of Approvals

The Commission may revoke or suspend, or seek revocation or suspension of, approvals or permits granted by it in accordance with applicable provisions of the Maine Administrative Procedure Act.

4.10 Public Access to Information

- (1) **Availability of Documents:** The staff shall make available to any person for inspection at no charge, and for copying at a reasonable fee, the following information:
 - (a) All applications and other forms submitted in support of any proposal;
 - (b) All correspondence to or from the Commission, including any attachments thereto concerning any application or petition;
 - (c) All written comments received from governmental agencies or any other person regarding an application or petition;
 - (d) The approved minutes of Commission meetings;
 - (e) Transcripts of all public hearings, where available; and recordings of all public hearings where recordings have not been transcribed;
 - (f) Staff recommendations on permit applications or petitions; and
 - (g) All permits, advisory opinions, and other orders issued by the staff or Commission.
- (2) **Confidentiality:** The Commission and staff shall keep confidential any record, plan, report or other information only in consultation with the Attorney General's Office in connection with an enforcement proceeding or other litigation or other matters where such confidentiality may be provided by law.

Effective Date: May 16, 1975

Amended Effective: October 17, 2000